

APPLICATION NUMBER P0672/25/OUT ADDRESS (FIRST LINE ONLY) Land north of Carisbrook Road CASE OFFICER Tony Pope	CONSULTEE (NAME/SECTION) Anouska Laramy Biodiversity Officer DATE 17/07/2025	 Forest of Dean — DISTRICT COUNCIL —
Issues Considered <i>Landscape impact (SPD)</i> <i>Landscaping</i> ☐ ☐ <i>Trees</i> <i>Ecology</i> ☐ ☒		
RECOMMENDATION (INSERT 'X' IN RELEVANT BOX)ⁱ ☒ ADDITIONAL INFORMATION REQUIRED (Please re-consult when received) ☒ OBJECTION (Refusal reason below) ☐ NO OBJECTION ☐ NO OBJECTION SUBJECT TO CONDITIONS (see 'Conditions and informatives' below) ☐ PRE-COMMENCEMENT CONDITIONS LIKLEY ☐ NO OBJECTION SUBJECT TO REVISIONS		
SUMMARY * Adequate / Further information required (FIR) / N/A/ conditions		
Ecological Report	FIR	Trees Identified & RPA's
Local Records Data Search	Adequate	Arboricultural Assessment
Mitigation	FIR	Landscape Assessment
Enhancement /Net Gain	FIR	Landscaping details
Further to your recent enquiry I have reviewed the submitted information and offer the following comments. <u>Proposal</u> Outline application for the erection of up to 180 residential dwellings (including affordable housing) with public open space, landscaping and vehicular access points (all matters reserved except for means of access) <u>Summary</u> • Further activity surveys information for horseshoe bats in accordance with our guidelines is required wv-fod-bat-sac-development-management-survey-and-assessment-guidance-vr-july-2021.pdf. • A Habitat Regulations Assessment for Likely Significant Effects has been undertaken and the preliminary screening has identified that it is not obvious that the proposal could not have any conceivable effect on a European Site during construction and therefore without protective measures there is conceivably likely significant effect. • Dormice require further consideration (surveys or robust justification as to why surveys are not required) due to records in close proximity and good quality surrounding habitats. • We consider that breeding bird surveys are required as the proposal has the potential to displace ground nesting farmland birds. <u>Reports</u>		

- **Ecological Impact Assessment, CSA Environmental, March 2025**
- **Lighting Strategy, DFL, April 2024**
- **Shadow Habitat Regulations Assessment, CSA Environmental, March 2025**
- **Biodiversity Net Gain Assessment, CSA Environmental, March 2025**

Detailed Comments

Horseshoe Bats associated with Wye Valley and Forest of Dean Bat SAC

The site is approximately 485m away from a component of the Wye Valley and Forest of Dean Bat SAC at its nearest boundary. Wigpool Ironstone mine is designated for its hibernating populations of horseshoe bats. Therefore, the site is within an extremely sensitive location and full surveys are required in accordance with our guidance [wv-fod-bat-sac-development-management-survey-and-assessment-guidance-vr-july-2021.pdf](#).

The Ecological Impact Assessment notes that further surveys will be undertaken – however the results of these surveys have not been submitted. Full data must be submitted to fully assess impacts to the SAC and to confirm buffer zones, which must be kept free from development (including gardens) and lighting. A landuse parameters plan must clearly show the extent of the buffer zones. As horseshoe bats have been shown to be present on all site boundaries a buffer zone of at least 10m from boundaries must be achieved. It is acknowledged that most of the boundaries do have extensive buffers beyond 10m – full buffer zones can be established when all surveys have been undertaken as some will need to exceed beyond 10m.

20m scrub habitat will be removed – could the ecologist please assess if there is suitability as a linear feature for bats to be using this as a flight path?

A lighting strategy has also been submitted which is welcomed as it is important that boundary features are kept dark with lux levels of 0.2 on the horizontal plane and 0.4 lux on the vertical plane or at baseline levels.

It is likely that monitoring will be required on the surrounding features due to the close proximity of the SAC with remediation measures. The ecologist should also consider recreational impacts to the SAC.

A Habitat Regulations Assessment for Likely Significant Effects has been undertaken and the preliminary screening has identified that it is not obvious that the proposal could not have any conceivable effect on a European Site during construction and operation and therefore without protective measures there is conceivably likely significant effect.

Once we have received the further information above the application will be taken to Appropriate Assessment.

Dormice

There is a dormouse record 880m from the site to the southwest, there is a road between the site and the record, however there is otherwise good connectivity and the presence of dormice cannot be ruled out.

Whilst it is acknowledged and welcomed that hedgerows and trees will be retained, suboptimal bramble scrub is to be removed – we consider if dormice are likely present within this habitat that the removal would be licensable – 20m is a significant amount to be removed where there are dormouse records with good habitat connectivity within close proximity and further surveys are likely to be required unless there is robust justification. Does the 20m include visibility splays? Visibility splays must also be considered in terms of impacts to dormice.

Dormice are a European Protected Species (EPS) and the authority is required to have evidence

to support an assessment of the likely impact on EPS, prior to issuing consent.

In this situation, the authority must consider its duty and have regard to the requirements of the Habitats Directive. In these circumstances the planning authority takes guidance from the three tests in Regulation 55 of the Conservation of Habitats and Species Regulations 2017 (as amended) and has also taken into consideration ODPM Circular 06/2005 (paragraphs 99, 112 & 116). Regulation 55(2) defines the circumstances where derogation is allowed for an affected EPS and a license could be issued by Natural England.

- The first test set out in Regulation 55(2)(e) deems that the need for the development should be in the interests of public health, public safety and an imperative reason of overriding public interest, which includes beneficial consequences of primary importance for the environment.
- The second test set out in Regulation 55(9)(a) deems that there should be 'no satisfactory alternative'.
- The third test set out in Regulation 55(9)(b) deems that the development should have no detrimental effect on the favourable conservation status of an EPS.

Currently it is considered the third test has not been met as the application does not adequately demonstrate the development would have no impact on the European Protected Species distribution and population.

Subject to the requested additional information being submitted and found acceptable the planning officer may also need to consider whether the first and second tests above can also be met prior to any positive determination.

Breeding birds

Breeding birds have been scoped out of the EcIA – the site could potentially support ground nesting farmland birds such as skylark which were noted on the adjacent fields. The bird survey guidelines note that breeding bird surveys should be scoped in unless there is robust justification [Scoping | Bird Survey Guidelines](#). We consider that bird surveys are required as we may require compensatory habitats for ground nesting birds, the area of compensatory habitats should be informed by scientific evidence (bird surveys).

Great crested newts

The majority of the site is within a green impact risk zone for great crested newts although a small portion is within the amber impact risk zone. As this is a major application Naturespace will be consulted and comment on impacts to great crested newts.

BNG

The BNG metric shows a net gain of 27.12% area net gain, 26.8% hedgerow net gain and 19.02% net gain in watercourse units – this is welcomed although the applicant must be aware that where mitigation for protected species is required this can only be counted up to no net loss within the metric. Buffer zone and hedgerows have been proposed for horseshoe bats and it is advised that following further protected species surveys if any mitigation/ compensation is required that two metrics are submitted one which shows mitigation for protected species only and one which shows all habitats to demonstrate that the protected species mitigation can only be counted up to no net loss.

If the above cannot be resolved refusal is recommended for the following reasons:

- 1) Insufficient information has been provided to demonstrate that there will be no adverse effects on the integrity of designated Habitat Sites including the Wye Valley & Forest of Dean Bat SAC which are protected under the Conservation of Habitats and Species Regulations 2017 (as amended), and in the absence of scientific evidence there is considered to be a conceivably likely significant effect on a designated nature consideration site contrary to policies CSP.1 and CSP.2 of Core Strategy and AP1, AP7 and AP8 of the Allocations Plans, sections 2 and 15 of the NPPF and the advice in the NPPG.
- 2) Insufficient information has been submitted, in particular, ecological survey information, assessment or mitigation to enable the Local Planning Authority to fully assess the extent to which species and habitats, including bats, dormice and breeding birds that are protected under the Wildlife and Countryside Act 1981 (as amended), The Conservation of Habitats and Species Regulations 2017 (as amended) or listed as species of Principal Importance in S.41 of the Natural Environment and Rural Communities Act 2006 may be affected by the proposed development. The Local Planning Authority is therefore unable to fully assess the development in respect of the requirements of the National Planning Policy Framework (in particular Chapter 15); The Planning Practice Guidance; Policies CPS1 of the Core Strategy and AP1, AP7 and AP8 of the Allocations Plan, and ODPM Circular 06/2005. The Local Planning Authority is also unable to fully assess the proposals in the light of the three derogation tests, as described in the ODPM Circular 06/2005 and The Conservation of Species and Habitats Regulations 2017 (as amended).

i EU Exit – The European Union (Withdrawal Agreement) Act 2020 (the EUWA) ended the supremacy of EU law in UK law, it converts directly applicable EU legislation (in particular, EU Regulations and Decisions) as it stands at the moment of exit into domestic law, and will preserve legislation previously made in the UK to implement EU obligations.

The legislation will generally have the same effect that it had before the UK left the EU, unless or until it is changed by Parliament.

In some cases there may be changes in referencing and guidance as a result of secondary legislation amendments. Changes may move at pace and it may not be possible to update all processes immediately. Where reference to specific legislation is made the reader should check to ensure referencing is consistent with any subsequent legislation amendments. Further information can be found at: <https://www.gov.uk/guidance/eu-exit-secondary-legislation-laid-with-impacts-on-local-government>

ii Commonly Used Ecology and Landscaping Planning Conditions may be found at <https://www.fdean.gov.uk/media/6119/st-core-conditions-sept-18vr6post-c-e-pub.pdf>